IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

RACHELLE SMITH	)	
	)	**Case No.:**
	)	
	)	**PLAINTIFFS' COMPLAINT**
Plaintiffs,	)	**FOR DAMAGES,**
	)	
v.	)	
	)	
ST. LOUIS COMMUNITY COLLEGE,	)	
A Missouri Not-For-Profit Corporation,	)	
YVONNE JOHNSON.	)	
	)	**JURY TRIAL DEMANDED**
Defendants.	)	

COMPLAINT AND JURY DEMAND

Plaintiff, Rachelle Smith, by and through her undersigned counsel, the Law Firm of Smith Brown LLC., hereby complains against the Defendants, the St. Louis Community College-Meramec and Yvonne Johnson as follows:

STATEMENT OF CLAIM

This is an action to vindicate violations of the Plaintiff's civil rights and to redress the unlawful and discriminatory conduct and employment practices of the Defendants. This action arises out of the discriminatory treatment Plaintiff endured while under the employ of Defendant from August 2008 through May of 2015 .

Mrs. Smith alleges, inter alia, that she was mistreated during her employment based on her gender and/or race in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section(s) 2000e et seq., and the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S.C. Section 1981.

Beginning on or about August 25, 2008, Rachelle Smith, an African-American female, was employed at the St. Louis Community College- Meramec (hereafter SLCCM). During her 7 years with SLCCM, Mrs. Smith performed her duties in a professional and outstanding manner. In August of 2011 Mrs Smith was hired as a Full Time Temporary Faculty member and Program Coordinator. In the Spring of 2012 Mrs. Smith applied to be promoted from an Adjunct Instructor to the position of Instructor II. She also continued to server as the Coordinator of the Human Services Program. Upon receiving the position, she was told that under the Joint Resolution, faculty must complete ten office hours per week, and she diligently fulfilled this responsibility. However, on or about August 28, 2014 she was informed by Yvonne Johnson, SLCCM's Dean of Humanities and Social Sciences Division, that unlike any other similarly situated employee, she would be required to be on campus four days per week. When she complained to the Dean, she was told that there would be "consequences" if she did not follow the directive.

On or about September 3, 2014 Dean Johnson mistakenly sent an email to Plaintiff which she intended to only send to Bob Thumith of SLCCM's Department of Human Resources and Labor Relations, and Andrew Langrher, SLCCM's Vice President of Academic Affairs. The email held Plaintiff solely responsible for matters that were the responsibility of all Human Services Coordinators across the St. Louis Community College District. Although all the coordinators shared a single practicum referral list, Mrs. Smith alone was reprimanded for errors on the list. Upon her realization that she had included Mrs. Smith in the email, Dean Johnson attempted to recall the message so that Plaintiff would not have access to it.

On or about February 24 of 2015 Mrs. Smith was informed by Dean Johnson by email that her contract would be continued and thus she would receive tenure status. However, on February 27, 2015 Plaintiff attended a meeting with Dean Johnson, and Bob Thumith at which she was told that she would not receive tenure status, but instead would be recommended for an additional year of probation. Dean Johnson expressed that although Plaintiff had received high evaluation scores, she was a poor administrator.

Mrs. Smith was not provided with any mentoring throughout her faculty appointment. Although her evaluations were consistently high, and her program numbers were impressive, when she facilitated an administrative task in the same manner that her white, male colleagues had facilitated it, she was disciplined. Further, despite the Joint Resolution, unlike her white counterparts, she was forced to be on campus four days per week.

Because of the Defendants' unlawful and discriminatory conduct and employment practices and violations of Plaintiff's rights protected by federal law, Mrs. Smith felt forced to resign her position at STLCCM. Plaintiff now seeks injunctive relief; monetary damages, including back pay, front pay, if applicable, compensatory and punitive damages; and attorney's fees and costs, pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq.; the Civil Rights Act of 1866, as amended, 42 U.S.C. Section 1981; 42 U.S.C. Section 1981A and 42 U.S.C. Section 1988.

PARTIES

1. Plaintiff, Rachelle Smith, an African-American, is an adult female individual and citizen of the United States who resides at 3529 Yellow Jasmine Dr Bridgeton MO 63044. At all relevant times, Mrs. Smith was an employee of the St. Louis Community College-Meramec, within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq., and applicable case law.
2. Defendant, the St. Louis Community College [herein referred to as SLCCM], is a corporation or similar business entity organized and existing under the laws of the State of Missouri.
3. At all relevant times, Defendant SLCCM employed in excess of fifteen employees and was an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq.
4. Defendant, Yvonne Johnson a white female, is an adult individual and citizen of the United States who resides in Missouri. At all relevant times, Ms. Johnson was an employee of Defendant SLCCM.

JURISDICTION AND VENUE

5. This is an action authorized and instituted pursuant to: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section(s) 2000e et seq.; the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S.C. Section 1981; 42 U.S.C. Section 1981A; 42 U.S.C. Section 1988, and the common law of the State of Missouri.
6. The jurisdiction of this Court is predicated upon 28 U.S.C. Section 1331 and 1343, to redress the unlawful deprivation of Plaintiff's rights secured, guaranteed and protected by federal law. The Court also has jurisdiction pursuant to 28 U.S.C. Sections 2201 and

2202 relating to declaratory judgments. This Court may also exercise pendant jurisdiction over Plaintiff's state law claims arising under the common law and statutes of the State of Missouri, and which arise from a common nucleus of operative fact pursuant to 28 U.S.C. Section 1367.

7. Venue is proper in the United States District Court for the Eastern District of Missouri pursuant to 28 U.S.C. Section 1391(b), wherein Plaintiff resides, all Defendants regularly conduct business and where all the wrongful conduct occurred.

ADMINISTRATIVE PREREQUISITES

8. Mrs. Smith has complied with all the administrative prerequisites to action under Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5 as follows:

   a. On or about July 23, 2015, Mrs. Smith timely filed a formal charge of discrimination with the the Equal Employment Opportunity Commission [hereinafter referred to as E.E.O.C.];

   b. Mrs. Smith promptly and diligently accommodated all E.E.O.C. requests for information and fully cooperated in the agency investigation of this matter;

   c. Mrs. Smith has exhausted all available administrative remedies in accord with the statutes prior to instituting this Civil Action, and she received a right to sue letter from the E.E.O.C. on August 31, 2016.

FIRST CAUSE OF ACTION-

Defendant SLCCM''s Violation of Title VII's Prohibition Against Race Discrimination -- Disparate Treatment

9. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

10. This claim is authorized and instituted pursuant to the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section(s) 2000e et seq., and 42 U.S.C. Section 1981A, for relief based upon the unlawful employment practices of the above-named Defendant. Specifically, Mrs. Smith complains of Defendant SLCCM's violation of Title VII's prohibition against discrimination in employment based, in whole or in part, upon an employee's race.

11. During her employment with Defendant SLCCM, Mrs. Smith was a member of a class protected under Title VII against race based discrimination by her employer, Defendant SLCCM, or by its supervisory personnel.

12. As set forth herein, Mrs. Smith was initially told by email by her supervisor that she qualified for and would receive a continued contract status, also known as tenure.

13. Despite being initially informed that he would be granted tenure, Mrs. Smith was placed on probation for an additional year.

14. Other similarly situated white employees were granted tenure and promotions, although Mrs. Smith was not. Likewise, other similarly situated African-American female employees at other St. Louis Community College Campuses were granted tenure and promotions.

    a. Howard Rosenthal, a white male Program Coordinator at the Florisant Valley Campus, which is racially and culturally integrated had no adverse employment actions taken against him, despite the fact that he performed similarly to Plaintiff.

b. Angela Roffle, an African -American program coordinator at the Forrest Park Campus, which has a majority African-American staff and student population, had no adverse actions taken against her under similar circumstances.

c. Mrs. Smith was employed at the Meramec Campus which has a 96% Caucasian makeup. Mrs. Smith's division was 98% Caucation.

d. Defendant SLCCM, further denied Mrs. Smith equal employment opportunities because of her race. The reasons given for Mrs. Smith's non-promotion were a mere pretext for unlawful discrimination in that Defendant SLCCM knew or should have known that Dean Johnson's accusations were uncreditable, suspect and uncorroborated;

15. At all relevant times, Defendant SLCCM knew that the discriminatory conduct complained of herein was without cause as Mrs. Smith had consistently satisfied and/or exceeded all the requirements of her position.

16. As a result of Defendant SLCCM's employment policies, procedures and practices, Mrs. Smith was unjustly and discriminatorily deprived of equal employment opportunities because of her race, African-American.

17. As a further result of Defendant SLCCM's above stated actions, Mrs. Smith has been, is being and will be deprived of income in the form of wages and prospective retirement benefits, and other benefits, promotion opportunities and job assignments due to her as an employee, but denied because of her gender and in an amount to be proven at trial.

18. The above-named Defendants' conduct was a direct and proximate cause of the injuries, damages and harm suffered by Mrs. Smith

19. Furthermore, Defendant SLCCM intentionally and/or with reckless indifference, engaged in the above stated discriminatory practices against Mrs. Smith, contrary to Mrs. Smiths' federally protected rights as guaranteed to her under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section(s) 2000e et seq., as amended, and 42 U.S.C. Section 1981.

20. The intentional and discriminatory conduct of Defendant SLCCM complained of herein was willful, wanton, deliberate, malicious, egregious and outrageous warranting the imposition of punitive/exemplary damages which will serve as an example and deterrent to Defendant and others who would commit similar illegal acts.

21. As Defendant SLCCM engaged in discriminatory employment practices with malice or with reckless indifference to Mrs. Smith's federally protected rights, Mrs. Smith is entitled to punitive/exemplary damages in addition to compensatory damages and other remedies available under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section(s) 2000e et seq., as amended, and 42 U.S.C. Section 1981A.

SECOND CAUSE OF ACTION – Negligence

22. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

23. Defendant SLCCM owed and continues to owe a duty of care to third parties, and more particularly to their employees such as Mrs. Smith, to prevent their employees from acting in any way to harm co-employees.

24. Defendant SLCCM had a further duty to ensure that all promotions were handled in a fair, impartial and/or non-discriminatory manner.

25. Defendant SLCCM breached its duty of care owed to Mrs. Smith by and through the following acts and/or omissions, which include but are not limited to:

    a. Failing to properly and adequately train its managerial employees, including Defendant Johnson to prohibit discriminatory employment practices, including discrimination based on race.

    b. Failing to implement and/or take appropriate remedial action once it knew or should have known that its employees were promotion and employment decisions in a discriminatory manner; and

    c. Failing to abide by its own express and implied employment policies and procedures;

    d. Failing to exercise reasonable care under the circumstances.

26. The above-named Defendants conduct was a direct and proximate cause of the injuries, damages and harm suffered by Plaintiff Smith.

27. Because the Defendants' conduct toward Mrs. Smith was improperly motivated, and was intentional, willful and wanton, Mr. James is entitled to punitive exemplary damages in addition to compensatory damages.

THIRD CAUSE OF ACTION -All Defendants –

Intentional Infliction of Emotional Distress

28. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

29. As set forth herein, during her employment with Defendant SLCCM, Mrs. Smith was subjected to a pattern of discrimination and misconduct in the workplace based, in whole or in part, on her race

30. At all relevant times, the above-named Defendants knew or should have known that Defendant Johnson's accusations against Mrs. Smith were false. Despite said knowledge, Defendants ignored the evidence and ratified her conduct.

31. Despite actual and/or constructive knowledge that the accusations were unfounded, Mrs. Smith was written-up and disciplined for alleged infractions of school policy, and was not promoted.

32. The above-named Defendants, by refusing to promote Plaintiff based on her race, acted intentionally, recklessly and/or with deliberate indifference to a substantial probability that severe emotional distress would result to Mrs. Smith.

33. The above-named Defendants' actions towards Mrs. Smith as set forth above, are evidence of a pattern of race discrimination which further constitutes extreme and outrageous conduct.

34. The conduct of the above-named Defendants was outrageous in character and extreme in degree, because said conduct was atrocious and egregious, and went beyond all possible bounds of decency and is utterly intolerable in a civilized community.

35. The extreme and outrageous conduct of the above-named Defendants toward Mrs. Smith was done in a willful and wanton manner, and constituted a disregard for the rights and well-being of Mrs. Smith.

36. As a direct and proximate result of the above-named Defendants' extreme and outrageous conduct, Mrs. Smith suffered severe emotional distress.

37. Because the Defendants' extreme and outrageous conduct toward Mrs. Smith was improperly motivated, and was intentional, willful and wanton, Mrs. Smith is entitled to punitive/exemplary damages in addition to compensatory damages.

ADDITIONAL PARTIES AND/OR CLAIMS

38. Mrs. Smith respectfully requests leave to amend her Complaint to add additional parties and/or claims upon completing initial discovery. It may be necessary to name agents or employees of the above-named Defendants, and to add additional claims such as intentional discrimination based on race pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq., and 42 U.S.C. Section 1981; intentional discrimination based on age pursuant to the Age Discrimination in Employment Act, 29 U.S.C. Section 620 et seq, conspiracy, malicious prosecution and negligent hiring if additional investigation and discovery elicits information that supports such claims.

DAMAGES

39. The conduct of the above-named Defendants, as set forth herein, in violating Mrs. Smith’s rights under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section(s) 2000e et seq.; the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S.C. Section 1981; and the common law of Missouri, caused injuries, damages and harm to Mrs. Smith, including, but not limited to, past and future economic loss, past and future non-economic losses, including extreme emotional

distress, loss of reputation, shame, humiliation, pain and suffering, inconvenience, mental anguish, impairment in the quality of life; and consequential losses.

WHEREFORE, Plaintiff Rachelle Smith requests judgment and damages against Defendants, the St. Louis Community College- Meramec and Yvonne Johnson jointly, severally and/or individually, as follows:

a. A declaratory judgment that Defendants have violated Mrs. Smith’s right to be free from discrimination in the workplace pursuant to the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq.; the Civil Rights Act of 1866, as amended by the Civil Rights Restoration Act of 1991, 42 U.S.C. Section 1981; 42 U.S.C. Section 1981A;

b. Enter an injunction ordering Defendant SLCCM to make Plaintiff whole with full back pay, benefits or, in the alternative, front pay.

c. An award to Mrs. Smith for compensatory damages in amount to be shown at trial for past and future economic and non-economic losses, including extreme emotional distress and mental anguish, impairment of the quality of life; and consequential loses;

d. An award to Mrs. Smith for exemplary and/or punitive damages in an amount to be shown at trial;

e. An award to Mr. Brown for reasonable attorneys' fees and costs, including but not limited to expert witness fees, as provided in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(k), 42 U.S.C. Section 1981A, 42 U.S.C Section 1988 and as provided under state law

f. An award to Mrs. Smith of interest on any awards at the highest rate allowed by law; and

g. Such other and further relief as this Court deems just and appropriate.

PLAINTIFF REQUESTS TRIAL TO A JURY ON ALL CLAIMS ALLOWED BY LAW.

Respectfully Submitted

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